

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM EMERY FODOR,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

3:12-cv-00330-LRH-VPC

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*. On August 16, 2012, petitioner paid the filing fee for this action. (ECF No. 4.)

Petitioner moves for an extension of his prison copywork limit. (ECF No. 1-4.) The court denies the motion without prejudice at this time. When petitioner has a specific need for copies as this case progresses, he may move the court at that juncture. In any future motions for an extension of copywork, petitioner should specify the purpose for the copies and provide an estimated dollar amount of the extension.

Petitioner has filed a motion for the appointment of counsel. (ECF No. 1-5.) There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the

1 case are such that denial of counsel would amount to a denial of due process, and where the
2 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See*
3 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in
4 this case are not especially complex, and petitioner has shown that he is capable of presenting his
5 claims and arguments in a relatively clear and organized fashion. Accordingly, the court concludes
6 that counsel is not justified in this case and denies the motion.

7 **IT IS THEREFORE ORDERED** that petitioner's motion to extend prison copywork limit
8 and motion for the appointment of counsel (ECF Nos. 1-4, 1-5) are **DENIED**.

9 **IT IS FURTHER ORDERED** that the clerk shall **FILE and ELECTRONICALLY**
10 **SERVE** the petition (ECF Nos. 1-1, 1-2) upon the respondents. A petition for federal habeas corpus
11 should include all claims for relief of which petitioner is aware. If petitioner fails to include such a
12 claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim.
13 *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his
14 petition, he should notify the court of that as soon as possible, perhaps by means of a motion to
15 amend his petition to add the claim.

16 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45) days** from entry
17 of this order within which to answer, or otherwise respond to, the petition. In their answer or other
18 response, respondents shall address any claims presented by petitioner in his petition as well as any
19 claims presented by petitioner in any statement of additional claims. Respondents shall raise all
20 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
21 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
22 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
23 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
24 **forty-five (45) days** from the date of service of the answer to file a reply.

25 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
26 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
27 consideration by the court. Petitioner shall include with the original paper submitted for filing a
28 certificate stating the date that a true and correct copy of the document was mailed to the Attorney

1 General. The court may disregard any paper that does not include a certificate of service. After
2 respondents appear in this action, petitioner shall make such service upon the particular Deputy
3 Attorney General assigned to the case.

4 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
5 be filed with a separate index of exhibits identifying the exhibits by number or letter. The CM/ECF
6 attachments that are filed further shall be identified by the number or numbers (or letter or letters) of
7 the exhibits in the attachment. **The hard copy of any additional state court record exhibits shall**
8 **be forwarded – for this case – to the staff attorneys in Reno.**

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11 DATED this 16th day of October, 2012.



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14 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE